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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

RESPONDENCE
COMING LETTER

93 DOE 13844

WROOM

ON 8/17

DATE

AUG 12 1993

Ref: 8HWM-FF

Mr. James K. Hartman
Assistant Manager for Transition
and Environmental Restoration
Rocky Flats Office
U.S. Department of Energy
P.O. Box 928
Golden, Colorado 80402-0928

Dear Mr. Hartman:

We have received your correspondence dated July 21, 1993, requesting that the "clock" be stopped on the schedules for Operable Units 1 through 7 until such time that the Department of Energy (DOE) receives and agrees to guidance on the methodology for the baseline risk assessments and preparation of the RCRA Facilities Investigation/Remedial Investigation Reports. Although we agree with the general need to stop work on risk assessments to the extent that such work is directly related to the aggregation of remedial investigation (RI) data, selection of contaminants of concern for both ecological and human health baseline risk assessments, and data aggregation for exposure assessment, we do not agree that the suspense date of June 21, 1993, applies to all referenced operable units, nor do we believe that DOE correctly invoked the Interagency Agreement (IAG) work stoppage provision.

Although you have not invoked the stop work procedures found in Part 24 of the IAG, we believe that it is appropriate to do so and as such in accordance with Part 24 of the IAG, EPA and CDH hereby request that the DOE stop work on the following portions of the baseline risk assessments for operable units 1, 2, 4, 5, 6 and 7:

1. Aggregation of RI data for the purpose of comparing to background concentrations,
2. Selection of the contaminants of concern for both ecological and human health baseline risk assessments, and
3. Aggregation of data for the purpose of conducting an exposure assessment.

EPA and CDH believe that the schedule "clock" should be stopped as of June 21, 1993, for operable units 1, 2, and 7 and as of the date of this letter for operable units 4, 5, and 6. As you know, the Dispute Resolution Committee (DRC) has previously

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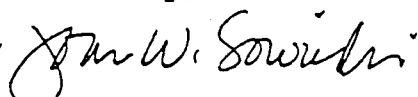
agreed to stop specific portions of the risk assessment work for operable unit 3 as of July 23, 1993 (See EPA's July 23, 1993 letter to CDH and DOE). EPA and CDH believe that stoppage of work is necessary until such time as an agreement is reached among the parties to the IAG on how the above issues as well as the statistical comparisons of RI data to background data will be resolved and implemented. We believe that if the above portions of work are allowed to proceed without agreement on background comparisons and selection of contaminants of concern, the remedy selection process is likely to be adversely impacted.

EPA and CDH expect that DOE will exercise diligence in achieving agreement among the parties on these issues. We believe that all parties must strive to reach this agreement within two months. We expect that other portions of the risk assessment, including but not limited to, data evaluation, identification of exposure scenarios, selection of exposure parameters, and ecological effects assessment will proceed as scheduled. However, once these issues are resolved, DOE shall evaluate and submit to EPA and CDH the impact to the above listed operable unit schedules associated with the diligent resolution of these issues in order to extend affected schedules pursuant to Part 42 of the IAG.

In your letter, you identified as an issue the "inclusion of non-waste management related activities." We are not clear what is meant by this reference. DOE is responsible under CERCLA for responding to the release of hazardous substances in the environment on DOE's facility and is responsible under RCRA for responding to the release of hazardous waste or constituents. CERCLA defines the term facility very broadly. If DOE does not intend to respond to hazardous substance or hazardous constituent releases associated with Rocky Flats, we need to discuss and resolve this issue immediately.

Pursuant to paragraph 163 of Part 24 of the IAG, work affected by this stoppage will immediately be discontinued for a period of up to five business days pending concurrence by the DRC. The DRC is to confer and meet as necessary during the five day period to attempt to concur on the need to stop work and the mechanism to re-start the work when it is appropriate to do so. Please contact Ms. Sowinski and Mr. Duprey at (303) 692-3359 and (303) 294-1720, respectively, to discuss the work stoppage and determine whether the DRC needs to meet formally to concur on this action.

Sincerely,



Joan Sowinski, Manager
Hazardous Waste Control Program
Colorado Department of Health



Robert L. Duprey, Director
Hazardous Waste Management Division
Environmental Protection Agency